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rulemaking in a particular area. The Commission will respond to such rule-making recommendation in writing within 90 days, noting its intent to implement, study, or defer action on the recommendation. In the event the Commission decides not to accept or decides to defer action on the recommendation, it will give its reasons for doing so. Both the ACRS recommendation and the Commission's response will be made available at the NRC Web site, <http://www.nrc.gov>, following transmittal of the Commission's response to the ACRS.

(b) When a rule involving nuclear safety matters within the purview of the ACRS is under development by the NRC Staff, the Staff will ensure that the ACRS is given an opportunity to provide advice at appropriate stages and to identify issues to be considered during rulemaking hearings.

[46 FR 22358, Apr. 17, 1981, as amended at 64 FR 48949, Sept. 9, 1999]

§2.810 NRC size standards.

The NRC shall use the size standards contained in this section to determine whether a licensee qualifies as a small entity in its regulatory programs.

(a) A small business is a for-profit concern and is a—

(1) Concern that provides a service or a concern not engaged in manufacturing with average gross receipts of \$5 million or less over its last 3 completed fiscal years; or

(2) Manufacturing concern with an average number of 500 or fewer employees based upon employment during each pay period for the preceding 12 calendar months.

(b) A small organization is a not-for-profit organization which is independently owned and operated and has annual gross receipts of \$5 million or less.

(c) A small governmental jurisdiction is a government of a city, county, town, township, village, school district, or special district with a population of less than 50,000.

(d) A small educational institution is one that is—

(1) Supported by a qualifying small governmental jurisdiction; or

(2) Not state or publicly supported and has 500 or fewer employees.

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(e) For the purposes of this section, the NRC shall use the Small Business Administration definition of receipts (13 CFR 121.402(b)(2)). A licensee who is a subsidiary of a large entity does not qualify as a small entity for purposes of this section.

(f) Whenever appropriate in the interest of administering statutes and regulations within its jurisdiction, it is the practice of the NRC to answer inquiries from small entities concerning information on and advice about compliance with the statutes and regulations that affect them. To help small entities obtain information quickly, the NRC has established a toll-free telephone number at 1-800-368-5642.

[60 FR 18346, Apr. 11, 1995, as amended at 62 FR 26220, May 13, 1997]

Subpart I—Special Procedures Applicable to Adjudicatory Proceedings Involving Restricted Data and/or National Security Information

SOURCE: 41 FR 53329, Dec. 6, 1976, unless otherwise noted.

§2.900 Purpose.

This subpart is issued pursuant to section 181 of the Atomic Energy Act of 1954, as amended, and section 201 of the Energy Reorganization Act of 1974, as amended, to provide such procedures in proceedings subject to this part as will effectively safeguard and prevent disclosure of Restricted Data and National Security Information to unauthorized persons, with minimum impairment of procedural rights.

§2.901 Scope of subpart I.

This subpart applies, as applicable, to all proceedings under subparts G, J, K, L, M, and N of this part.

[69 FR 2264, Jan. 14, 2004]

§2.902 Definitions.

As used in this subpart:

(a) *Government agency* means any executive department, commission, independent establishment, corporation, wholly or partly owned by the United States of America, which is an instrumentality of the United States, or any

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board, bureau, division, service, office, officer, authority, administration, or other establishment in the executive branch of the Government.

(b) *Interested party* means a party having an interest in the issue or issues to which particular Restricted Data or National Security Information is relevant. Normally the interest of a party in an issue may be determined by examination of the notice of hearing, the answers and replies.

(c) The phrase *introduced into a proceeding* refers to the introduction or incorporation of testimony or documentary matter into any part of the official record of a proceeding subject to this part.

(d) *National Security Information* means information that has been classified pursuant to Executive Order 12356.

(e) *Party*, in the case of proceedings subject to this subpart includes a person admitted as a party under § 2.309 or an interested State admitted under § 2.315(c).

[41 FR 53329, Dec. 6, 1976, as amended at 47 FR 56314, Dec. 16, 1982; 69 FR 2264, Jan. 14, 2004]

§ 2.903 Protection of restricted data and national security information.

Nothing in this subpart shall relieve any person from safeguarding Restricted Data or National Security Information in accordance with the applicable provisions of laws of the United States and rules, regulations or orders of any Government Agency.

§ 2.904 Classification assistance.

On request of any party to a proceeding or of the presiding officer, the Commission will designate a representative to advise and assist the presiding officer and the parties with respect to security classification of information and the safeguards to be observed.

§ 2.905 Access to restricted data and national security information for parties; security clearances.

(a) Access to restricted data and national security information introduced into proceedings. Except as provided in paragraph (h) of this section, restricted data or national security information introduced into a proceeding subject to

this part will be made available to any interested party having the required security clearance; to counsel for an interested party provided the counsel has the required security clearance; and to such additional persons having the required security clearance as the Commission or the presiding officer determined are needed by such party for adequate preparation or presentation of his case. Where the interest of such party will not be prejudiced, the Commission or presiding officer may postpone action upon an application for access under this paragraph until after a notice of hearing, answers, and replies have been filed.

(b) Access to Restricted Data or National Security Information not introduced into proceedings.

(1) On application showing that access to Restricted Data or National Security Information may be required for the preparation of a party's case, and except as provided in paragraph (h) of this section, the Commission or the presiding officer will issue an order granting access to such Restricted Data or National Security Information to the party upon his obtaining the required security clearance, to counsel for the party upon their obtaining the required security clearance, and to such other individuals as may be needed by the party for the preparation and presentation of his case upon their obtaining the required clearance.

(2) Where the interest of the party applying for access will not be prejudiced, the Commission or the presiding officer may postpone action on an application pursuant to this paragraph until after a notice of hearing, answers and replies have been filed.

(c) The Commission will consider requests for appropriate security clearances in reasonable numbers pursuant to this section. A reasonable charge will be made by the Commission for costs of security clearance pursuant to this section.

(d) The presiding officer may certify to the Commission for its consideration and determination any questions relating to access to Restricted Data or National Security Information arising under this section. Any party affected by a determination or order of the presiding officer under this section may